

The issue is whether appellant sustained post-traumatic stress disorder in the performance of duty.

FACTUAL HISTORY

On January 29, 2008 appellant, then a 52-year-old industrial hygienist, filed a claim alleging that her post-traumatic stress disorder was a result of her federal employment.¹ After developing the factual evidence, the Office accepted two compensable factors of employment: (1) In the Marlton Area Office, a telephone call was received on June 20, 1996 and identified as a bomb threat. The message was given to appellant. (2) On June 26, 1996 a telephone message was taken and passed on to appellant stating that the caller had made a threat to strangle her.²

On March 31, 2008 Dr. Peter S. Mueller, a psychiatrist, reported that he first saw appellant for post-traumatic stress disorder on July 29, 1996. He explained how symptoms at that time and neuropsychological tests on August 1, 1996 supported the diagnosis. Appellant was afraid to go to work, had problems sleeping, experienced flashbacks and was fearful for her safety and that of her children. Dr. Mueller noted that her stress reaction led to a cascade in cognitive and emotional deterioration, leading to work, financial and recurrent marital problems. He stated that appellant was especially upset with the investigation and negative reaction from her supervisor, and that she was not provided critical incidence stress assistance by the employer. Dr. Mueller noted that, in response to the August 29, 1996 inquiry of her employer, he advised appellant's prognosis was excellent if a supportive environment was provided. He noted advising the employer that appellant could return to work. Dr. Mueller stated:

“As a result [appellant] now presents with her health compromised and is incurring considerable medical expense. She has significantly depleted her sick leave due to health problems related to this event. This is a pity because in my extensive experience such a disorder with sensitive and considerable treatment can be allayed. [Appellant] continues to have anxiety, fear and large medical expenses which I believe should be paid by her employer in total.”

In a decision dated March 19, 2009, the Office denied appellant's claim for compensation benefits. It found that Dr. Mueller did not provide a well-reasoned opinion addressing how appellant developed post-traumatic stress disorder from the telephone messages she received on June 20 and 26, 1996.

On August 29, 1996 Dr. Mueller related that he first saw appellant on July 29, 1996 for anxiety and problems concentrating related to a death threat in the office plus other stress in her job. He noted his findings and his diagnosis of post-traumatic stress reaction related to a death threat by strangulation from a business owner to whom she had issued a citation. Dr. Mueller described the treatment provided and considered her prognosis excellent: “[T]his is just temporary condition brought about by an unusual job stress (a death threat).” He believed she could return to work immediately.

¹ Appellant's claim was denied by the Office on July 18, 2008 as untimely filed as her last date of exposure was June 26, 1996. By decision dated December 18, 2008, an Office hearing representative set aside the July 18, 2008 decision, finding that appellant's immediate supervisor had actual knowledge of the injury within 30 days.

² The Office found that complaints about the investigation were not compensable in the absence of administrative error. It also found that the evidence did not establish the source of the bomb threat as an irate individual who had earlier called to contest a citation.

On October 15, 2009 Dr. Mueller stated that appellant feared she would be murdered by the owner of a construction company who she believed made threats against her life. This included a bomb threat that resulted in evacuation of the building and a subsequent threat of strangulation. Dr. Mueller explained that his diagnosis of post-traumatic stress was based on appellant's symptoms and the illness she developed subsequent to these threats. He stated, "There is no doubt in my mind that her illness resulted from these threats."

In a decision dated December 15, 2009, an Office hearing representative affirmed the denial of appellant's claim for compensation benefits. The hearing representative found that Dr. Mueller referred to allegations that were not established or compensable and that he offered no rationale to support how he arrived at his conclusion.

On appeal, appellant's representative argues that appellant provided sufficient medical evidence to establish that her post-traumatic stress disorder is related to the compensable factors of employment, or that there is at least sufficient medical evidence to further develop the evidence.

LEGAL PRECEDENT

The Federal Employees' Compensation Act provides compensation for the disability of an employee resulting from personal injury sustained while in the performance of duty.³ An employee seeking benefits under the Act has the burden of proof to establish the essential elements of her claim. When an employee claims that she sustained an injury in the performance of duty, she must submit sufficient evidence to establish that she experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. She must also establish that such event, incident or exposure caused an injury.⁴

Causal relationship is a medical issue.⁵ The medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on whether there is a causal relationship between the claimant's diagnosed condition and the established incident or factor of employment. The opinion of the physician must be based on a complete factual and medical background of the claimant,⁶ must be one of reasonable medical certainty,⁷ and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the established incident or factor of employment.⁸

³ 5 U.S.C. § 8102(a).

⁴ *John J. Carlone*, 41 ECAB 354 (1989).

⁵ *Mary J. Briggs*, 37 ECAB 578 (1986).

⁶ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁷ *Morris Scanlon*, 11 ECAB 384, 385 (1960).

⁸ *William E. Enright*, 31 ECAB 426, 430 (1980).

ANALYSIS

The Office accepted as factual that appellant established two compensable factors of employment related to telephone incidents in 1996. The evidence establishes that these events or incidents occurred at the time, place and in the manner alleged. The question is whether the medical evidence of record is sufficient to establish that these incidents caused appellant's emotional condition.

Dr. Mueller, appellant's attending psychiatrist, generally supported that her illness resulted from the incidents accepted in this case. The Board finds, however, that Dr. Mueller did not adequately support his stated opinion on causal relationship. The medical records from the physician consist of a one-page report to the Office dated August 29, 1996, a two-page report of March 31, 2008 with supplemental material and three paragraphs on October 15, 2009.

Dr. Mueller initially treated appellant on July 29, 1996. He provided a diagnosis of post-traumatic stress disorder and noted treatment with medication. Dr. Mueller listed as factors, a death threat in the office, stress due to understaffing and unrealistic job performance expectations. At that time, he advised that appellant's prognosis was excellent and that her condition was temporarily brought about by unusual job stress. Dr. Mueller found that she could return to work as of August 29, 1996 and that her attitude and intelligence were excellent.

On March 31, 2008, some 12 years later, Dr. Mueller reiterated that appellant was seen again for post-traumatic stress disorder. He noted that her past history was significant for marital problems that had improved prior to the verbal assault at work. Dr. Mueller stated that diagnostic testing of 1996 showed scores typical of post-traumatic stress and he attached two sheets of materials related to the diagnostic criteria, noting by check marks that appellant met certain parameters for establishing the diagnosis. He related that appellant's emotional condition led to a cascade of cognitive and emotional deterioration, leading to problems at work, financial problems and recurrent marital problems. Dr. Mueller noted that appellant was especially upset at the unconscionable delays of the investigation, negative reaction of her supervisor, and the lack of any critical stress assistance by her employer, factors that have not been established as compensable in this case. As a result, appellant presented with her health compromised and continued to have anxiety, fear and large medical expenses which the physician believed should be paid by her employer. On October 15, 2009 Dr. Mueller reiterated the diagnosis in relation to the factors accepted by the Office, noting it had been provided to the Office in 1996. In support of his opinion, he made general reference to his curriculum vitae and extensive experience as a neuropsychiatrist.

The opinion of Dr. Mueller relies primarily on the August 29, 1996 report. As noted, the reports are relatively brief without any accurate or detailed history of appellant's preexisting emotional status, review of prior medical treatment or description of the incidents accepted.⁹ Dr. Mueller noted generally that there were marital problems prior to a death threat in the office

⁹ See *Vernon R. Stewart*, 5 ECAB 276, 280 (1953) (medical opinions based on histories that do not adequately reflect the basic facts are of diminished probative value). See also *Melvina Jackson*, 38 ECAB 443, 450 (1987); *James A. Wyrick*, 31 ECAB 1805 (1980).

at work, but did not describe how this impacted appellant's emotional status in 1996. Further, he advised that her condition was due to factors not accepted as compensable in this case, such as understaffing and unreasonable job expectations. In 2008, Dr. Mueller did not cure these deficiencies in his earlier report. Rather he noted additional factors not accepted by the Office, such as an unconscionable delay in investigating the telephone incidents, a negative reaction by her employer and the lack of assistance by her employer. More critically, however, Dr. Mueller failed to specifically address why appellant became disabled in 2008, some 12 years after she had been returned to work for what he had characterized as a temporary aggravation of her emotional condition.¹⁰ He did not explain how the factors accepted by the Office were competent to produce her disability for work in 2008. There is no discussion of any medical treatment received after 1996 or of any bridging symptoms between Dr. Mueller's diagnoses at that time to his treatment in 2008.¹¹

Dr. Mueller made only general reference to diagnostic testing performed but did not provide any discussion of any mental status examinations or other tests relevant to establishing the original diagnosis in 1996 or explain how this carried through to treatment provided in 2008. Rather, he submitted two pages of check marks next to a photocopied description of the criteria for establishing post-traumatic stress. The three reports submitted to the record are insufficient to establish causal relationship. Dr. Mueller stated, "There is no doubt in my mind that her illness resulted from these threats. The [Office] was provided this diagnosis in 1996 when they requested medical information regarding this patient." Moreover, his 2008 report addressed factors pertaining to the analysis of the legal issues involved in the case when he stated that he believed appellant's employer should be responsible for her current medical expenses. It is well established that a medical expert should address the medical question of causal relation; not questions outside the area of Dr. Mueller's expertise as to legal or adjudication issues when providing an opinion.¹²

For these reasons, the Board finds that the opinion of Dr. Mueller is of diminished probative value.¹³ The medical reports provided by Dr. Mueller are not thorough or explained to a reasonable degree of medical certainty.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish that the accepted factors of employment caused her post-traumatic stress disorder.

¹⁰ Medical conclusions unsupported by rationale are of diminished probative value. *Ceferino L. Gonzales*, 32 ECAB 1591 (1981); *George Randolph Taylor*, 6 ECAB 986 (1954).

¹¹ See *Stephen J. Perkins*, 40 ECAB 1193 (1989).

¹² See *Jeannine E. Swanson*, 45 ECAB 325 (1994) and FECA Bulletin No. 84-33 (issued July 6, 1984) (questions related to the acceptance a claim or weight of medical evidence are in the province of the claims examiner and those adjudicating the issue of compensability).

¹³ See *Jean Culliton*, 47 ECAB 728 (1996) (a physician's opinion on causal relationship is not dispositive simply because it is rendered by a physician).

ORDER

IT IS HEREBY ORDERED THAT the December 15, 2009 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 3, 2011
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board